NEW YORKERS FOR RESPONSIBLE LENDING

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May 17, 2013

Office of the Comptroller of the Currency (OCC)
Docket ID OCC-2013-0003
Via email: regs.comments@occ.treas.gov

Federal Reserve Board (FRB)
Docket No. OP-1456
Via email: regs.comments@federalreserve.gov

Federal Deposit Insurance Corporation (FDIC)
Attention: Comments on CRA Interagency Q&A
Via email: comments@fdic.gov

RE: Interagency Questions and Answers Regarding Community Reinvestment

Dear OCC, FRB, and FDIC:

The undersigned members of the New Yorkers for Responsible Lending coalition (NYRL) are pleased to submit comments regarding the proposed changes to the Interagency Questions and Answers (Q&A) regarding the Community Reinvestment Act (CRA).

NYRL is a 161-member state-wide coalition that promotes access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL members represent community development financial institutions, community-based organizations, affordable housing groups, advocates for seniors, legal services organizations, housing counselors, and community reinvestment, fair lending, labor and consumer advocacy groups. Coalition members have first-hand knowledge of the banking and community development landscape in New York State.

As you know, groups from around the country testified at hearings your agencies held in summer 2010 about proposed CRA regulatory amendments. We continue eagerly to await these sorely-needed reforms, including, for example:

- Updated definition of CRA assessment areas;
- Evaluation of banks' performance in communities of color, as well as in low- and moderate-income neighborhoods;

- A meaningful standard for ensuring that banks that discriminate against people or communities do not receive Satisfactory or better CRA ratings; and
- Evaluation of banks' performance at the neighborhood – not only city-wide, county, regional or MSA – level.

Banking has changed significantly since the CRA regulations were last amended and current CRA regulations do not address the growth of internet banking and the need for an updated assessment area definition. Nor do they effectively address the proliferation of problematic banking practices, such as predatory bank payday lending and foreclosure and mortgage servicing abuses. In fact, the proposed Q&As would undermine efforts to hold banks publicly accountable by explicitly allowing banks, for CRA purposes, to compensate for "weak retail lending performance" with community development lending.

The proposed interagency Q&A includes updates to four existing and two new Q&As:

Existing:

I. Community Development Activities Outside an Institution's Assessment Areas(s) in the Broader Statewide or Regional Area That Includes the Institution's Assessment Area(s)
II. Investments in Nationwide Funds
III. Community Services Targeted to Low- or Moderate-Income Individuals
IV. Service on the Board of Directors

New:

I. Qualified Investments
II. Community Development Lending in the Lending Test Applicable to Large Institutions

The proposed changes to Q&As I and II address CRA assessment areas. The proposed Q&As acknowledge that the current definition of assessment area is inadequate but then fail to address the heart of the problem. Currently, assessment areas are only those geographical areas where the bank being examined has branches, although many banks, particularly large banks, make loans outside of their branch networks through the internet, brokers, or correspondent lenders. This disconnect has the deleterious effect of regulators' ignoring banks' harmful practices, as long as they fall outside the banks' CRA assessment areas. The agencies should designate additional assessment areas for counties and metropolitan areas in which a bank makes sizable numbers of loans, including credit card loans, even if the bank does not have branches there.

Instead of updating the definition of assessment areas, the agencies propose that banks may receive CRA credit for community development activities that take place outside their assessment areas, even for nationwide community development investments, as long as these investments are not conducted to the detriment of community development activities in the institutions' assessment areas. The agencies' proposed Q&As are one-sided as they allow banks to claim CRA credit for community development activities conducted on a regional or even national scale, but do not impose a commensurate CRA responsibility on banks to meet the credit needs of communities in these areas. The proposal takes CRA in the wrong direction and starkly demonstrates the need to amend the definition of assessment areas to ensure that banks, particularly the large banks that now dominate the U.S. financial system and operate nationwide, are held accountable for their lending, or lack of lending, across the country.

Proposed Q&A II would allow banks to receive CRA credit for investments in nationwide funds, even for investments made outside of banks' assessment areas – and even where the specific geography in which funds are ultimately invested and the quality of the investments are uncertain. Although sound investment in community development funds is of course vital to communities, encouraging banks to invest in nationwide funds is contrary to the spirit of CRA. The agencies, in any event, should be explicit that investment in nationwide funds is in no way a substitute for direct, on-the-ground investments in local community development initiatives.

Further, if assessment areas were consistent with banks' actual service areas, the purported challenges banks face in suitable community development projects within their assessment areas would likely not exist, particularly for large banks.

The proposed changes to Q&As III and IV and new Q&As I and II fail to address the fundamental purpose of CRA—to encourage banks to meet the credit needs of communities within the bounds of safe and sound lending practices. Community development lending and investment are clearly critical to affordable housing and other neighborhood development, but are not a replacement for sound retail lending in local communities. Nor should banks' philanthropy be considered a substitute for meaningful community reinvestment. The agencies should underscore that philanthropic giving is not a proxy for meeting community credit needs. Before the financial meltdown, for example, as community groups sounded the alarm on abusive lending practices that were harming millions of people and devastating historically redlined neighborhoods, banks proudly touted their support for financial literacy programs – as if the programs were an antidote to predatory lending practices and as if banks bore no responsibility for their abusive and discriminatory practices. Giving grants is easier for banks than finding ways to meet community credit needs through direct lending, services, and investment, and consideration of philanthropic activity should not figure into the CRA exam.

Proposed Q&A IV would grant CRA consideration for community development organization board service by bank personnel. This proposal, which expressly states that the board service need not entail specialized community development technical support, suggests that anyone working for a bank who happens to serve on the board of a community development organization is by definition fulfilling the bank's CRA requirements. Anyone who has sat on or worked with a community development organization's board of directors would instantly recognize the misguided nature of this proposal.

The proposed Q&As fail to address the glaring deficiencies of the CRA service test. Banks are closing branches disproportionately in low- and moderate-income neighborhoods and communities of color. Several of the country's largest banks have become payday lenders, trapping their customers in long-term cycles of debt. A rigorous service test which critically assesses data on bank deposits and loan and deposit products offered in addition to bank branches in low- and moderate-income communities is urgently needed.

In short, we find it disappointing that the regulators have proposed what appear to be a handful of industry-driven proposals, and hope that broad CRA reform is forthcoming. Thank you for the opportunity to comment.

Respectfully,

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